

**UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT**

JAMES T. BURKE,
Plaintiff

v.

T.J. DONOVAN, State's Attorney,
State of Vermont,
Defendant

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File No. 1:08-CV-263

ORDER

The Magistrate Judge's Report and Recommendation was filed December 2, 2009. (Paper 20.) After de novo review and absent objection, the Report and Recommendation is AFFIRMED, APPROVED and ADOPTED. See 28 U.S.C. § 636(b)(1).

The defendant's motion to dismiss (Paper 9) is GRANTED. Plaintiff's motions to amend (Papers 12, 15, 17 and 19) are DENIED. Plaintiff's motion for summary judgment (Paper 14) is DENIED as moot. This case is DISMISSED without prejudice.

It is further certified that any appeal taken in forma pauperis from this Order would not be taken in good faith because such an appeal would be frivolous. See 28 U.S.C. § 1915(a)(3).

SO ORDERED.

Dated at Brattleboro, in the District of Vermont, this 29th day of December, 2009.

/s/ J. Garvan Murtha

Honorable J. Garvan Murtha

Senior United States District Judge